

William J. Gavin

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1	Vesper George School of Art?		1 here and there.
2	A. No.	2 Q. Okay. I'm just trying to get a sense of how	3 long after you left Vesper George it was before you
3	Q. Did you successfully complete the program at	4 took any painting classes.	5 A. Oh, it was years. I'm not sure how many
4	Vesper George?	6 years.	7 Q. Where did you go to work after Waldoroth?
5	A. I did not.	8 A. Honeywell Information Systems in Waltham.	9 Q. When did you start working for Honeywell?
6	Q. Did not, okay. Under what circumstances did	10 A. 1975.	11 Q. What was your job at Honeywell?
7	you leave?	12 A. I was hired as a technical illustrator.	13 Q. What did that involve?
8	A. I needed a job.	14 A. Graphic art duties of -- typical graphic art	15 duties.
9	Q. Okay. When was that?	16 Q. Did you leave Waldoroth to take the job at	17 Honeywell?
10	A. I'm not sure of the exact year and time.	18 A. Yes.	19 Q. At the time you began work at Honeywell, had
11	Q. Do you know how far away you were from	20 you taken any classes in painting?	21 A. Did you say before or --
12	getting a certificate?	22 Q. Before.	23 A. No.
13	A. Half a year.	24 Q. Do you recall when after you joined	
14	Q. What did you do after you left the Vesper		
15	George School of Art?		
16	A. I got a job at a label company.		
17	Q. At a label company?		
18	A. Yes.		
19	Q. What were you doing at that job?		
20	A. We created and pasted, it was called		
21	paste-up labels for products.		
22	Q. Do you recall the name of that company?		
23	A. Waldoroth Label Company.		
24	Q. Could you spell that for us?		
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1	A. W-A-L-D-O, I believe, R-O-T-H. Waldoroth.	1 Honeywell that you began taking classes of painting?	
2	Q. Did you attend any school after you left	2 A. Again, actual days, I can't remember. I	
3	Vesper George?	3 believe I was employed -- it must have been around	
4	A. Yes.	4 1976, '77.	
5	Q. When did you next go to school?	5 Q. Where did you take the painting classes?	
6	A. Schools or were just classes.	6 A. DeCordova Museum.	
7	Q. All right. So you left Vesper George to go	7 Q. Was that part of any sort of degree or	
8	to work at Waldoroth. Do you recall what year that	8 certificate program?	
9	was?	9 A. No.	
10	A. I don't remember exactly what year it was,	10 Q. Was that painting in relation to commercial	
11	no.	11 art or is that a different sort of discipline?	
12	Q. Do you recall how long you were at	12 A. It was different.	
13	Waldoroth?	13 Q. How long did you attend classes at	
14	A. Probably a year and a half.	14 DeCordova?	
15	Q. Were you in school at all while you were	15 A. They were only approximately a week.	
16	working at Waldoroth?	16 Q. Did you attend any other sort of schools	
17	A. No.	17 where you took any classes or courses in art?	
18	Q. Do you recall the next time you attended any	18 A. No.	
19	sort of classes?	19 Q. So you don't have any sort of a degree or	
20	A. Again, the only classes I took were painting	20 certificate in any sort of an art -- from any sort	
21	classes.	21 of an art school?	
22	Q. All right. Do you recall when you took	22 A. No.	
23	painting classes?	23 Q. Other than the classes and courses you've	
24	A. I don't remember the exact dates. They were	24 already described for us, have you had any other	

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1	Q. Where did Gavin Associates advertise?	1	A. Personal check.
2	A. In Ad Week.	2	Q. Your personal check?
3	Q. What is Ad Week?	3	A. My personal check.
4	A. Ad Week is a, what would you call it? A 5 business magazine for the trade.	4	Q. Did Gavin Studios ever get any business as a 5 result of the ads placed in Ad Week?
6	Q. What trade is that?	6	A. Yes.
7	A. Advertising.	7	Q. Was that for entities other than Honeywell?
8	Q. Is that -- is advertising industry an 9 industry that would use a graphic artist?	8	A. Yes.
10	A. The advertising?	9	Q. Is it fair to say that, to your knowledge,
11	Q. Yes.	10	Gavin Studios did not get any work from Honeywell
12	A. Yes.	11	through the ad in Ad Week? Do you understand that
13	Q. You advertise under the name Gavin 14 Associates, correct?	12	question?
15	A. No.	13	A. I did not get work from --
16	Q. Is it Gavin Studios?	14	MR. WILGOREN: I don't understand the
17	A. Yes.	15	question.
18	Q. How long did you run the ads in Ad Week?	16	Q. I'll ask it over again. At the time you
19	A. Approximately a year.	17	placed the ad, you were already doing work for
20	Q. Do you recall when that was?	18	Honeywell, correct?
21	A. I don't remember the exact years.	19	A. Correct.
22	Q. What was the nature of the ad that you 23 ran -- or let me ask it. Was it one ad that you ran 24 for a year or was it different ads?	20	Q. So your work at Honeywell was not the result
		21	of the ad you placed in Ad Week?
		22	A. Correct.
		23	Q. What are the names of companies that you did
		24	work for as a result of the ad?
	Page 27		Page 29
1	A. It was a one ad.	1	A. I don't remember all of them. There was
2	Q. What was the nature of that ad?	2	only a few. Crown Service Systems.
3	A. A name and a phone number and service.	3	Q. What's the name?
4	Q. Did it describe the services that Gavin 5 Studios provided?	4	A. Crown Service Systems, Wellesley
6	A. I believe it just said graphic arts, graphic 7 artist service.	5	Publications, and a few odd ones that I just don't
8	Q. Do you still have any of the information 9 relating to that ad at all?	6	remember their names.
10	A. No.	7	Q. Just don't recall, all right. What type of
11	Q. What would have happened to it?	8	work did you do for Crown Services?
12	A. The magazines were thrown out.	9	A. I did graphic arts.
13	Q. You didn't keep any records of what ads you 14 had placed?	10	Q. Is it possible to be more specific?
15	A. No. It was -- no.	11	A. Sure. I did ad layouts for them, Yellow
16	Q. Did Gavin Studios, I assume you had to pay 17 for the ads?	12	Page ads. Basically just advertising flyers for
18	A. Yes.	13	them.
19	Q. Did Gavin Studios have its own checking 20 account at all?	14	Q. Do you recall what period of time you did
21	A. No.	15	work for Crown Services?
22	Q. How were the ads paid for?	16	A. Again, I'm not sure of the years. I don't
23	A. By check.	17	remember exactly what years it was.
24	Q. Whose check?	18	Q. Do you know how long you did work for Crown
		19	Services?
		20	A. Maybe two years.
		21	Q. Do you know if they're still in business?
		22	A. Yes, they are.
		23	Q. Do you do any work for them currently?
		24	A. No, I don't.

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1 Q. Do you recall when you last did any work for
2 Crown Services?
3 A. Again, I don't remember the exact year.
4 Somewhere in the '90's.
5 Q. Is it Wellesley Publications, is that the
6 name?
7 A. Yes.
8 Q. What type of business are they?
9 A. They produce a bimonthly real estate
10 magazine.
11 Q. What type of work did you do for them?
12 A. I checked their ads that are submitted for
13 publication and provide art services and any graphic
14 arts that they might need.
15 Q. Are you currently doing -- do you know if
16 Wellesley Publications are still in business?
17 A. Yes, they are.
18 Q. Are you currently doing work for them at
19 all?
20 A. Yes, I am.
21 Q. Have you done work for them fairly
22 consistently since the early 1980's?
23 A. Again, they're a bimonthly magazine. Every
24 other month I would do a few things for them.

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1 an agreed upon fee with Wellesley Publications for
2 the work you do for them?
3 A. Yes.
4 Q. Is that a flat rate or an hourly rate?
5 A. It's an hourly rate.
6 Q. You're not an employee of Wellesley
7 Publications, correct?
8 A. No.
9 Q. You're not -- at any time have you been?
10 A. No.
11 Q. Same question for Crown Services --
12 A. No.
13 Q. -- have you ever been an employee of them?
14 A. Sorry, I interrupted you.
15 Q. That's okay. The answer is no?
16 A. No.
17 Q. Does Gavin Studios have records -- let me
18 ask a question before that.
19 Records relating to Gavin Studios, where
20 are those kept?
21 A. Where are they kept? They're at my home.
22 Q. Do you have records for the work you've done
23 for Wellesley Publications and Crown Services?
24 A. Yes.

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1 Q. Have they been a consistent customer of
2 Gavin Studios since the time you first started doing
3 work for them?
4 A. Yes.
5 Q. When I say you're doing work for them, is
6 that under the name Gavin Studios?
7 A. Yes.
8 Q. The same thing for Crown Services, was that
9 work done under the name --
10 A. Yes.
11 Q. Just wait until I finish the question.
12 A. Sorry.
13 Q. Under the name Gavin Studios?
14 A. Yes.
15 Q. Did Gavin Studios send invoices to both
16 Crown Services and Wellesley Publications for that
17 work?
18 A. Yes.
19 Q. Were those invoices paid?
20 A. Yes.
21 Q. Is the billing to Wellesley Publications, is
22 that done on a -- what's the basis on which -- let
23 me strike that and re-ask the question.
24 Was there an agreed upon fee? Is there

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1 Q. Sitting here today, do you know the dollar
2 volume of work you have done for Wellesley
3 Publications?
4 MR. WILGOREN: From inception?
5 Q. Let me ask the last year, do you know how
6 much work you've done for Wellesley Publications?
7 A. Last year?
8 Q. Yes.
9 A. Yes, I do know.
10 Q. What is that amount?
11 A. Approximately.
12 Q. Yes.
13 A. Four thousand dollars.
14 Q. Do you recall your hourly rate currently for
15 Wellesley Publications?
16 A. Yes.
17 Q. What is that?
18 A. 60 dollars.
19 Q. Has that hourly rate changed over the course
20 of the time you've done work for Wellesley
21 Publications?
22 A. Yes.
23 Q. Has the annual income -- is the annual
24 amount that's been billed to Wellesley Publications,

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<p style="text-align: right;">Page 34</p> <p>1 has that remained about the same since you began 2 doing work for them? 3 A. I'm not sure of that question again. 4 Q. Sure. Your testimony was that you did 5 approximately four thousand dollars worth of work 6 for Wellesley Publications in the last year; is that 7 correct? 8 A. Correct. 9 Q. Has that number been constant since the time 10 you first started doing work for Wellesley 11 Publications? 12 A. You mean the amount? 13 Q. Yes. 14 A. No, it varies. 15 Q. Okay. Has the number of hours changed -- 16 no, let me ask that the other way. Has the number 17 of hours you worked for Wellesley Publications per 18 year, has that remained fairly constant since you 19 started doing work for them? 20 A. No. 21 Q. It fluctuates as well? 22 A. Yes. 23 Q. Sitting here today, do you have any idea as 24 to the amount of work, number of hours you devoted</p>	<p style="text-align: right;">Page 36</p> <p>1 Q. Actually, let me show you a document. 2 MR. DONOGHUE: Actually, can you mark 3 that as Exhibit 1, first. 4 (Exhibit 1 marked for identification) 5 (Document exhibited to witness) 6 Q. Mr. Gavin, I've placed a document in front 7 of you, which has been marked as Exhibit 1, and ask 8 you if you've seen that document before? 9 A. Yes. 10 Q. Could you tell us what that is? 11 A. It is a resume of myself. 12 Q. Did you prepare that resume? 13 A. I did. 14 Q. The document that was handed to you has 15 three pages. Do you recognize the second and third 16 pages? 17 A. Yes. 18 Q. What are those? 19 A. Those are copies -- prints of work that I 20 had done for Bull. 21 Q. Were those attached to the resume? 22 A. They were not. 23 Q. They were not, okay. Do you know when you 24 prepared Exhibit 1?</p>
<p style="text-align: right;">Page 35</p> <p>1 to work for Crown Services? 2 MR. WILGOREN: When? 3 Q. The total length of time you worked for 4 Crown Services. 5 A. I can't put a number on that. 6 Q. Would you have records at home that would 7 show that? 8 A. I believe so. 9 Q. Other than those two businesses which you 10 identified, do you recall any other businesses that 11 you've done work for as Gavin Studios, other than 12 Honeywell? 13 A. No major businesses. 14 Q. No major businesses? Okay. Do you recall 15 any minor businesses? 16 A. Yes. 17 Q. Who is that? 18 A. The names of the businesses? 19 Q. If you recall. 20 A. Again, if I can clarify. Some of these were 21 just one-time jobs. 22 Q. Okay. 23 A. Hopkinton, I think, Education Foundation I 24 believe was one.</p>	<p style="text-align: right;">Page 37</p> <p>1 A. The first page? 2 Q. Yes. 3 A. Judging by the client list here, it was 4 probably around 2000. 5 Q. Do you recall that you prepared the first 6 page of Exhibit 1 at the time you were still 7 performing services for Bull? 8 A. Yes. 9 Q. What was the purpose of creating the first 10 page of Exhibit 1? 11 A. To acquire more work. 12 Q. Did you distribute the first page of Exhibit 13 1? 14 A. When it was asked for, yes. 15 Q. Is your resume, the first page of Exhibit 1, 16 is that also available on the Gavin Studio website? 17 A. Yes. 18 Q. In fact, there's a reference to the website 19 at the heading of the first page, correct? 20 A. Correct. 21 Q. Does Gavin Studios still maintain that 22 website? 23 A. Yes. 24 Q. Do you know when that website was created by</p>

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1	Gavin Studio?	1	A. Yes.
2	A. I don't remember the exact date.	2	Q. You did create them?
3	Q. Can you give an approximate date at all?	3	A. I did create those.
4	A. Probably around 1991, '92.	4	Q. And you have records that would show when
5	Q. The second and third pages of Exhibit 1, I	5	those were created?
6	think you described them as examples of work you've	6	A. Yes.
7	done for Bull; is that correct?	7	Q. Above that there's a reference to software
8	A. That's correct.	8	experience. Where did you get the experience with
9	Q. Are those samples contained on the Gavin	9	the various types of software that are listed?
10	Studio website?	10	A. I was self-taught.
11	A. They are.	11	Q. Was that over a course of a period of time?
12	Q. Is one of the reasons you maintain a Gavin	12	A. Yes.
13	Studio website to create work for Gavin Studio?	13	Q. There's a reference to clients further down
14	A. Yes.	14	on the page one of Exhibit 1. I'll ask you to look
15	Q. I'll ask you a couple of questions about the	15	at that and see if that refreshes your memory as to
16	resume, page one. There's a reference to two	16	some other clients of Gavin Studios.
17	websites about a third of the way down. One for	17	A. Yes, they do.
18	www.ceoexchange.com and one for	18	Q. Do you have records that would show what
19	wwwtherealestatepro.com. Do you see those two	19	type of services you provided for each of those
20	references?	20	companies during what time period?
21	A. Yes.	21	A. Some of them.
22	Q. And it says built and maintained, correct?	22	MR. WILGOREN: Objection.
23	A. Correct.	23	A. Sorry.
24	Q. What does that mean?	24	MR. WILGOREN: Hasn't been established
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1	A. That means I created the information	1	they were clients of Gavin Studios.
2	pages -- not the information, I'm sorry. Created	2	MR. DONOGHUE: All right, well --
3	the pages that are on those websites.	3	Q. Are those clients of Gavin Studios?
4	Q. Was that done for clients of Gavin Studio?	4	A. Are they, is that --
5	A. Yes.	5	Q. I'll ask it two different ways. There's a
6	Q. Who is the client for CEO exchange dot com?	6	list that says partial list of clients, correct, on
7	A. CEO exchange is the name of the client.	7	page one?
8	Q. And the same question for the real estate	8	A. Correct.
9	pro.	9	Q. At some point were all those companies
10	A. The real estate pro is the real estate	10	listed a client of Gavin Studios?
11	professional magazine.	11	A. When you say client, you mean on-going
12	Q. Do you recall when -- is that one of	12	client or --
13	Wellesley Publications magazines?	13	Q. Well, at any time were those companies
14	A. Correct.	14	listed a client of Gavin Studios?
15	Q. Do you recall when you built either of those	15	A. Yes.
16	websites?	16	Q. Are any of them current clients of Gavin
17	A. I'd have to look at my records to find the	17	Studios?
18	exact date. Probably four years ago.	18	A. Yes.
19	Q. Approximately 2002?	19	Q. Who is a current client?
20	A. Probably before that. I'm guessing. I'm	20	A. Wellesley Publications.
21	not sure exactly what date it was.	21	Q. Anyone else?
22	Q. Do you recall whether you created those	22	A. No.
23	websites while you were still performing service --	23	Q. It says partial list of clients. Are there
24	providing services to Bull?	24	other clients -- have there been other clients of

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1	technical illustrator for a period of time?	1	4.45?
2	A. Yes.	2	A. I assume I did.
3	Q. For how long?	3	MR. WILGOREN: Don't assume.
4	A. Forever.	4	A. I'm sorry, don't assume.
5	Q. Okay. Well, all right, then.	5	Q. But you don't have any memory?
6	A. That was still part of the job.	6	A. I don't have a memory, no.
7	Q. So that part of your job never changed, is	7	Q. Fair enough. At some point you returned to
8	that what you're saying?	8	perform services at Honeywell, correct?
9	A. Never changed.	9	A. Yes, correct.
10	Q. At the time you were hired in 1975, were you	10	Q. When was that?
11	hired as an employee?	11	A. 1979.
12	A. Yes.	12	Q. Why did you return?
13	Q. Where did you work?	13	A. John Haskell called me and asked me if I
14	A. In Waltham, Massachusetts.	14	could do a couple of jobs for him.
15	Q. Do you recall your pay rate at that time at	15	Q. At that time, between the time you left and
16	all?	16	the time Mr. Haskell called you, were you providing
17	A. Yes.	17	services for anyone at all, whether as an employee
18	Q. What was it?	18	or otherwise?
19	A. What I was offered or what I actually got?	19	A. No.
20	Q. Okay. If there's two different numbers, why	20	Q. Could you identify who Mr. Haskell is?
21	don't you tell me what you were offered.	21	A. Mr. Haskell ran the technical illustration
22	A. I answered the ad for four dollars and 65	22	department.
23	cents an hour.	23	Q. Was that the department you worked at before
24	Q. Okay. What did you actually start at?	24	you left Honeywell in '79?
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1	A. Four dollars and 45 cents an hour.	1	A. When I first came -- I have to clarify this.
2	MR. WILGOREN: Off the record.	2	Q. Sure.
3	(Discussion off the record)	3	A. When I first came to the company, there were
4	Q. At some point you left Honeywell?	4	three art departments.
5	A. Yes.	5	Q. Okay.
6	Q. When was that?	6	A. I was in one, which mainly took care of
7	A. The exact date is -- I'm not sure of the	7	in-house. There was another art department, which
8	exact date, but it was 1979. No, sorry, let me	8	was John Haskell's art department, which did all the
9	think. I believe it was '79.	9	technical illustration and manuals. Then there was
10	Q. All right.	10	another art department that just handled PR, outside
11	A. Yes, yes.	11	work. So I transferred from the first art
12	Q. Sometime during that year?	12	department to John Haskell's department. And then
13	A. Yes.	13	in that time frame I left.
14	Q. Why did you leave Honeywell at that time?	14	Q. How long had you been working in
15	A. I left because -- honestly, to change my	15	Mr. Haskell's department before you left in 1979?
16	job. And my mother had died, and I was living at	16	A. I'm not sure. Maybe a year.
17	home.	17	Q. So you said Mr. Haskell called you and asked
18	Q. When you left Honeywell, did you go to work	18	you to do a couple of projects; is that correct?
19	for another employer?	19	A. That's correct.
20	A. No.	20	Q. That was also in calendar year 1979?
21	Q. Do you recall what your pay rate was when	21	A. Yes.
22	you left Honeywell in '79?	22	Q. You weren't employed at all in the interim,
23	A. No, I don't.	23	between the time you left and the time you came
24	Q. Do you recall if you got a raise from the	24	back?

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<p style="text-align: right;">Page 54</p> <p>1 A. Correct.</p> <p>2 Q. How long a period of time was that?</p> <p>3 A. I'm not sure exactly. No more than a few 4 months.</p> <p>5 Q. Did Mr. Haskell call you on the phone?</p> <p>6 A. Yes.</p> <p>7 Q. Do you recall what he said?</p> <p>8 A. I don't remember his exact words.</p> <p>9 Q. Did you in fact enter into a relationship 10 with Honeywell after that conversation? Yes, after 11 that conversation.</p> <p>12 A. Yes, yeah.</p> <p>13 Q. Did you have any discussions with 14 Mr. Haskell before you returned to work?</p> <p>15 A. Only when he called me to come in.</p> <p>16 Q. Did he tell you the types of projects?</p> <p>17 A. It was the same work.</p> <p>18 Q. When you say "the same work," what do you 19 mean?</p> <p>20 A. The work that I was working on when I left 21 was the same work that I worked on when I came back.</p> <p>22 Q. You said Mr. Haskell's department was 23 responsible for technical illustrating; is that -- 24 do I have that correct?</p>	<p style="text-align: right;">Page 56</p> <p>1 MR. WILGOREN: Objection. Calls for 2 legal conclusion.</p> <p>3 Q. Were you classified as an employee?</p> <p>4 A. I'm not sure how they classified me.</p> <p>5 Q. How did you get paid?</p> <p>6 A. By check.</p> <p>7 Q. Was it payroll check?</p> <p>8 A. It was a company check.</p> <p>9 Q. Do you know if it was a payroll check?</p> <p>10 A. I have no idea.</p> <p>11 Q. Do you know if there were tax deductions 12 taken out of the check?</p> <p>13 A. Oh, there were no tax deductions.</p> <p>14 Q. Did you have any discussion with Mr. Haskell 15 as to the basis upon which you would be returning to 16 Honeywell?</p> <p>17 A. I'm not sure what you mean.</p> <p>18 Q. At the time you left, you were an employee, 19 correct?</p> <p>20 A. Correct.</p> <p>21 Q. You came back. Did you have an 22 understanding at all that your status was different?</p> <p>23 MR. WILGOREN: Objection.</p> <p>24 A. Different in the sense that I wasn't an</p>
<p style="text-align: right;">Page 55</p> <p>1 A. Yes.</p> <p>2 Q. What is that used for, if I may ask?</p> <p>3 A. It was more than technical illustration.</p> <p>4 Illustration was part of it. It was pasting up and 5 producing camera ready artwork for their tech 6 manuals, product briefs. Anything that the company 7 used for publication for themselves.</p> <p>8 Q. But that's internal publication?</p> <p>9 A. Internal publications.</p> <p>10 Q. You said there were a couple of projects he 11 wanted you to work on, correct?</p> <p>12 A. Correct.</p> <p>13 Q. Those weren't projects you had been working 14 on prior to the time you left; is that fair to say?</p> <p>15 A. Not the same projects, no.</p> <p>16 Q. What was the relationship upon your return 17 to work for Honeywell?</p> <p>18 MR. WILGOREN: Objection.</p> <p>19 MR. DONOGHUE: I'll withdraw the 20 question and re-ask the question.</p> <p>21 Q. At the time you left Honeywell in 1979, you 22 were an employee, correct?</p> <p>23 A. Yes.</p> <p>24 Q. When you came back, were you an employee?</p>	<p style="text-align: right;">Page 57</p> <p>1 employee.</p> <p>2 Q. Okay.</p> <p>3 A. At least in their eyes.</p> <p>4 Q. You had that understanding when you came 5 back?</p> <p>6 A. Yes.</p> <p>7 Q. How did you have that understanding?</p> <p>8 A. I'm not sure -- how did I have an 9 understanding?</p> <p>10 Q. Okay, did Mr. Haskell tell you that before 11 you returned?</p> <p>12 A. He didn't tell me anything, really.</p> <p>13 Q. How did you learn that you were no longer 14 considered by Honeywell to be an employee?</p> <p>15 A. They created purchase orders.</p> <p>16 Q. All right. Who were those purchase orders 17 directed to?</p> <p>18 A. To me.</p> <p>19 Q. Personally?</p> <p>20 A. To the company.</p> <p>21 Q. Which company?</p> <p>22 A. Gavin Studio -- Gavin Associates at the 23 time.</p> <p>24 Q. Somehow you had to know about Gavin</p>

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1 Associates, correct?
 2 A. I'm not sure I know what you mean. How I
 3 had to know. He, John Haskell created it.
 4 Q. But he told you about it?
 5 A. Yes.
 6 Q. What did he say?
 7 A. He said I'm going -- we're going to give you
 8 this name, Gavin Associates.
 9 Q. Did he tell you --
 10 A. And I will bill against it or bill.
 11 Q. Did he tell you, you would have purchase
 12 orders in Gavin Associates' name?
 13 A. He didn't tell me. He just produced them.
 14 Q. Did you send invoices to Honeywell from
 15 Gavin Associates?
 16 A. Yes.
 17 Q. How did you come to do that?
 18 A. I was instructed to.
 19 Q. By who?
 20 A. John Haskell.
 21 Q. When Mr. Haskell advised that you would be
 22 paid on a purchase order, did he also advise you
 23 that the company considered you to be a contractor?
 24 A. He didn't really specify, that I remember.

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1 Q. During that time, were you aware of the
 2 company's vacation policy?
 3 A. Yes.
 4 Q. And you were aware of any retirement benefit
 5 funds the company had?
 6 A. What was in the manual, yes.
 7 Q. You received manuals at the time you started
 8 working?
 9 A. Yes.
 10 Q. And you were aware of the company's health
 11 insurance program at the time?
 12 A. Yes.
 13 Q. Before you left the company in '79, were you
 14 participating in the health insurance program?
 15 A. I honestly don't remember.
 16 Q. Were you participating in any other
 17 insurance programs that the company had before then?
 18 A. No.
 19 Q. Is that a no or you don't know?
 20 A. No, I don't believe so.
 21 Q. What else do you recall about the company's
 22 benefit program at the time you became an employee
 23 in '75?
 24 A. I don't recall anything else.

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1 Q. Was that your understanding of how the
 2 company perceived you?
 3 A. At the time, yes.
 4 Q. It was. Okay. So you knew when you went
 5 back to work in '79 that the company was treating
 6 you as an independent contractor?
 7 A. Yes.
 8 Q. And you got paid a check based on a purchase
 9 order, correct?
 10 A. Yes.
 11 Q. And there were no taxes taken out of that
 12 check?
 13 A. Correct.
 14 Q. In fact, were there any deductions at all
 15 taken out of the check?
 16 A. No.
 17 Q. Were you familiar with employee benefits
 18 that the company had provided its employees prior to
 19 the time you left Honeywell in 1979?
 20 A. Just from what I learned when I was -- my
 21 first -- became employed with the company in '75.
 22 Q. But you had worked there almost four years,
 23 correct?
 24 A. '75, '76 -- approximately.

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1 Q. Now, when you rejoined the company at
 2 Mr. Haskell's request in '79, you understood that
 3 the company was not considering you an employee at
 4 that time; is that correct?
 5 A. That's correct.
 6 Q. And you knew that you weren't, in the
 7 company's eyes, eligible for vacation time; is that
 8 correct?
 9 A. Correct.
 10 Q. You knew that you also were not eligible for
 11 participation in the company's health insurance
 12 program at that time, correct?
 13 A. Correct.
 14 Q. And did you also know that you were not
 15 considered a participant in the company's retirement
 16 benefit plans at that time?
 17 MR. WILGOREN: Objection. Are you
 18 asking from the company's point of view with respect
 19 to all these questions?
 20 MR. DONOGHUE: Let me withdraw the
 21 question and re-ask it to make sure we're clear.
 22 Q. When you returned in '79, you understood the
 23 company did not consider you to be eligible for
 24 participation in its retirement plans; is that

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1 correct? 2 A. Correct. 3 Q. Was it your understanding when you came back 4 at Mr. Haskell's request in 1979 that you were not 5 considered a participant in any of the company's 6 employee benefit programs? 7 A. Correct. 8 Q. So you did understand that at that time? 9 A. That's what I believed, yes. 10 Q. Do you recall, when you first returned and 11 you were working on these projects, was there an 12 hourly rate? Well, strike that. 13 What was the basis of your payment? 14 A. It was based on an hourly rate. 15 Q. What was the hourly rate, if you recall at 16 that time? 17 A. I believe we stated it was like seven 18 dollars and something an hour somewhere. 19 Q. Do you recall if it was a higher rate than 20 the rate you had been paid when you were an 21 employee? 22 A. No. 23 Q. Do you recall what the rate was that you 24 were paid at, at the time you left employment in	Page 62	1 Q. How did you send the invoices? 2 A. Per purchase order. 3 Q. Per purchase order, okay. Were purchase 4 orders and projects not the same thing? 5 A. No, they weren't. 6 Q. Was there one purchase order per project or 7 how did that work? 8 A. No, it depended on the job. Usually 9 whatever they could fit on it. 10 Q. Would you know the amount of the purchase 11 order before you began providing services? 12 A. No. 13 Q. Are you familiar with a company known as 14 Sullivan & Cogliano? 15 A. Yes. 16 Q. Did you have any sort of relationship with 17 them at all? 18 A. Yes. 19 Q. What was that relationship? 20 A. I was asked by John Haskell to go through 21 Sullivan & Cogliano so they could provide pay 22 through them by way of Honeywell to -- 23 Q. Go ahead. 24 A. To -- the reasoning being they could not	Page 64
1 early 1979? 2 A. I don't really remember. 3 Q. But you don't have any memory one way or 4 another as to whether, let me make sure I finish the 5 question, as to whether the rate you were paid upon 6 your return was different than the rate you were 7 paid upon your departure? 8 A. I don't recall. 9 Q. You submitted invoices from Gavin Associates 10 at first? 11 A. Correct. 12 Q. How frequently did you submit invoices? 13 A. After a job was completed. 14 Q. When you first returned to provide services 15 for Honeywell at Mr. Haskell's request, how many 16 hours did you spend on the projects that he asked 17 you to come back to work on? 18 A. They varied from job to job. 19 Q. Was it full time? 20 A. Yes -- not at first it wasn't, no. 21 Q. Regardless of the length of each particular 22 project, you sent an invoice under Gavin Associates' 23 name for each project? 24 A. Not for each project.	Page 63	1 hire me back directly for one year. So I had to go 2 through an agency. 3 Q. When you say "the reasoning," was that what 4 Mr. Haskell told you? 5 A. Yes. 6 Q. Do you recall specifically what he said? 7 A. Basically what I said. I don't know the 8 exact words, but that company's policy was not to 9 re-hire people for one year after they leave on 10 their own. 11 Q. At the time you had that conversation, did 12 you understand that Honeywell was proposing to bring 13 you back as an independent contractor? 14 A. Again, time frame, I was not aware of how 15 long this was going to go on. 16 Q. I'm not sure that -- you indicated that 17 Mr. Haskell told you that because of a company rule 18 as to bringing people back within a year, you had to 19 be employed or work through Sullivan & Cogliano, 20 correct? 21 A. Correct. 22 Q. At the time of that discussion, was it your 23 understanding that Mr. Haskell was proposing to 24 bring you back as an independent contractor?	Page 65

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1 A. During that time or --
 2 Q. Yes.
 3 A. Yes.
 4 Q. How long did you actually do work for
 5 Honeywell through Sullivan & Cogliano?
 6 A. Approximately one year.
 7 Q. During the time you were providing services
 8 through Sullivan & Cogliano, had Gavin Associates
 9 been created by then?
 10 A. Yes.
 11 Q. Were you sending invoices --
 12 A. Oh, excuse me. No, they were not created by
 13 then.
 14 Q. I just want to get the chronology right.
 15 Did you end up providing services through Sullivan &
 16 Cogliano?
 17 A. To Honeywell, yes.
 18 Q. Yes, okay. Was Sullivan & Cogliano treating
 19 you as an employee or as an independent contractor?
 20 A. I believe an employee.
 21 Q. Do you have any memory of that at all?
 22 A. They withheld taxes, if that's what you
 23 mean.
 24 Q. Okay. At some point you stopped becoming --

1 A. Change in what respect?
 2 Q. In any respect, other than the name change.
 3 A. No.
 4 Q. Do you receive any benefits as an employee
 5 of Sullivan & Cogliano?
 6 A. I believe they had an employee policy of
 7 providing vacation days, but I never got to that
 8 point.
 9 Q. You weren't there long enough?
 10 A. Correct.
 11 Q. Now, how about health insurance or any other
 12 benefits?
 13 A. I don't remember.
 14 Q. Other than changing from the relationship to
 15 providing services through Sullivan & Cogliano when
 16 you began providing services through Gavin
 17 Associates, was there any other change in terms of
 18 the services you provided to Honeywell?
 19 A. No.
 20 MR. DONOGHUE: Can I take about two
 21 minutes?
 22 MR. WILGOREN: Why don't we take about
 23 five minutes.
 24 (Whereupon, a recess was taken)

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1 you stopped providing services through Sullivan &
 2 Cogliano, correct?
 3 A. Correct.
 4 Q. Is that the time when Gavin Associates came
 5 into being?
 6 A. Yes.
 7 Q. For how long -- your testimony was that was
 8 approximately a year after you returned to
 9 Honeywell?
 10 A. Yes.
 11 Q. So is it fair to say that was approximately
 12 1980?
 13 A. It's fair to say, yes.
 14 Q. So was Gavin Associates created in 1980,
 15 approximately?
 16 A. Approximately.
 17 Q. How long was it before Gavin Associates
 18 became Gavin Studio?
 19 A. Again, I'm not sure exactly, but it
 20 wasn't -- I don't remember what I answered awhile
 21 ago.
 22 Q. Other than the name change, was there any
 23 other change when Gavin Associates became Gavin
 24 Studios?

1 Q. Mr. Gavin, I should have mentioned this
 2 before. When we take breaks, you realize when we
 3 come back, you're still under oath? You understand
 4 that?
 5 A. I understand.
 6 Q. When you came back to Honeywell in '79, were
 7 your projects assigned to you by Mr. Haskell?
 8 A. Yes.
 9 Q. Were they assigned to you on a
 10 project-by-project basis?
 11 A. It varied.
 12 Q. Okay. Explain the variation to me, then.
 13 A. There was a job pile. Again, they were
 14 doing numerous publications of various types, tech
 15 manuals and product briefs. And when they were
 16 ready to be pasted up, they would end up in a pile.
 17 If you had something -- if you had a free moment,
 18 like you completed another job, you would just grab
 19 the next one.
 20 Q. Did you have any sort of a formal
 21 description of your work position or your job at
 22 that point?
 23 A. Not that I recall.
 24 Q. Were there other people at the time --

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<p style="text-align: right;">Page 82</p> <p>1 A. It was after I inquired about -- after I 2 spoke with my lawyer, Michael Romaneau. 3 Q. Prior counsel? 4 A. Yes. 5 Q. Was that sometime in 2002? 6 A. Yes. 7 Q. Did you type this up and prepare it 8 yourself? 9 A. I did. 10 Q. I'm going to ask you a couple of questions 11 about it. The first page there's a reference to 12 Sullivan & Cogliano; do you see that? 13 A. I do. 14 Q. Does that reflect the dates that you 15 provided work to -- or provided services for 16 Honeywell through Sullivan & Cogliano? 17 A. Yes. 18 Q. So is it fair to say that, that relationship 19 ended in June of 1979? 20 A. Yes. 21 Q. Is it fair to say it began in June of 1978? 22 A. Yes. 23 Q. The information you have when you provided 24 services through Sullivan & Cogliano has the number</p>	<p style="text-align: right;">Page 84</p> <p>1 A. Yes. 2 Q. The figures in Exhibit 2, does that reflect 3 the amounts you received? 4 A. That I received, yes. 5 Q. Is that before taxes? 6 A. I'd have to look at the pay stubs to be 7 sure. I don't remember. 8 Q. Further on down the page, there is a 9 reference to Gavin Associates, correct? 10 A. Correct. 11 Q. Does that reflect that your services to 12 Honeywell began to be provided under the name Gavin 13 Associates? 14 A. That reflects the PO date, the invoice date, 15 yes. 16 Q. I notice there's some overlap between the 17 beginning date of Gavin Associates and ending date 18 of Sullivan & Cogliano. Would you agree with that? 19 A. Yes. 20 Q. Do you know why that is? 21 A. The Sullivan Cogliano dates were the dates I 22 was paid, not the date that I was working. 23 Q. Okay. Do you recall how long a lag time 24 there was between the date that you provided the</p>
<p style="text-align: right;">Page 83</p> <p>1 of hours of work as well as the total amount paid, 2 correct? 3 A. Correct. 4 Q. Does that refresh your memory at all as to 5 what you were paid on an hourly basis during the 6 time you provided services through Sullivan & 7 Cogliano? 8 A. Well, I would need a calculator to figure it 9 out. 10 Q. 224 divided by 32, would that yield the 11 hourly rate? 12 A. I would presume so, yes. 13 Q. Was that a rate that you had discussed with 14 Mr. Haskell at all? 15 A. No. 16 Q. How was that rate determined? 17 A. Yes, excuse me, John Haskell and I did 18 discuss it, and Sullivan & Cogliano had a higher 19 rate. And of course through their company policy, 20 they retained some of the pay for themselves as a 21 commission. 22 Q. Oh, okay. So Honeywell was paying, to your 23 knowledge, was paying Sullivan & Cogliano an 24 overhead fee for providing the services?</p>	<p style="text-align: right;">Page 85</p> <p>1 services and the date that Sullivan & Cogliano paid 2 you? 3 A. I don't recall. 4 Q. Do you recall there being a time when you 5 were providing services to Honeywell during the same 6 work week under both Sullivan & Cogliano and Gavin 7 Associates? 8 A. I was not. 9 Q. If you turn to page 2 of Exhibit 2, there is 10 a reference at 6/16/80. There's a remark, "move to 11 Millis." Do you see that? 12 A. Yes. 13 Q. Is that when you moved to Millis? 14 A. Yes, it is. 15 Q. Did Gavin Associates move with you? 16 A. Gavin Studio moved with me. 17 Q. It was Gavin Studio at that time. Do you 18 know when it changed from -- let me ask you this. I 19 know I've asked you that question. Does looking at 20 Exhibit 2 help you determine when Gavin Associates 21 became Gavin Studio? 22 A. No, it does not. 23 Q. I notice on 3/2/81, there's a reference to 24 married.</p>

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	Page 90		Page 92
1	Gavin Studio?	1	A. Yes.
2	A. Yes.	2	Q. And you knew that you were not deemed by the
3	Q. Is she employed full time anywhere?	3	company to be eligible for that; is that correct?
4	A. No.	4	A. I believe that.
5	Q. Does she work anywhere other than Gavin	5	Q. You knew that was the company's position?
6	Studio?	6	A. Yes.
7	A. No.	7	Q. How about were you familiar with the
8	Q. Are you employed anywhere -- are you working	8	retirement benefits program through your wife's
9	anywhere other than Gavin Studio?	9	employment?
10	A. No.	10	A. Yes.
11	Q. I asked you whether Mrs. Gavin had performed	11	Q. And you knew you weren't covered by that
12	services for Honeywell or Bull through Gavin	12	program, correct?
13	Studios, and I believe you testified yes.	13	A. Yes.
14	A. Yes.	14	Q. At least in the company's view?
15	MR. WILGOREN: Objection.	15	A. In the company's perception.
16	Q. Was that before or after she ceased being an	16	Q. The same with the other benefit programs,
17	employee of Honeywell?	17	did you understand the difference between the
18	A. Both.	18	benefits she received as an employee and your
19	Q. As an employee, at the time you were	19	situation as a contractor?
20	married, was she a full-time employee at that time?	20	A. Yes.
21	A. No.	21	Q. If you move further down the second page of
22	Q. Do you know if she was receiving -- she was	22	Exhibit 2, there's a reference to a new rate of 15,
23	an employee, though, correct?	23	it says in approximately January of '82?
24	A. Yes.	24	A. Yes.
	Page 91		Page 93
1	Q. She was not a contractor?	1	Q. What does that indicate?
2	A. Correct.	2	A. That indicated a new rate, pay rate.
3	Q. How did you know that?	3	Q. That's an hourly rate?
4	A. She told me.	4	A. Hourly rate.
5	Q. All right. Were you aware as an employee of	5	Q. That's the hourly rate you were invoicing
6	what benefits she was receiving as an employee?	6	Honeywell for?
7	A. Yes.	7	A. From that time, yes.
8	Q. Was she participating in the company's	8	Q. Do you recall what the rate was before that?
9	health insurance program?	9	A. I don't remember exactly.
10	A. Yes.	10	Q. Now, as of January of '82, was Mrs. Gavin
11	Q. And you were aware of this, correct?	11	still employed at Honeywell?
12	A. Yes.	12	A. At that time?
13	Q. At the time you were married, did you then	13	Q. Yes.
14	become covered under the health insurance program?	14	A. No, she was not.
15	A. Yes.	15	Q. At the time you were married, do you recall
16	Q. Did that continue as long as she was	16	what her hourly rate was?
17	employed by the company?	17	A. I don't remember.
18	A. Correct.	18	Q. At the time your new rate was 15 dollars, do
19	Q. Were you familiar with the other employee	19	you know what the hourly pay rate was for the
20	benefits she was receiving for Honeywell?	20	graphic artists who were employees at Honeywell?
21	A. Yes.	21	A. No, we never knew.
22	Q. She received vacation time?	22	Q. Did not know?
23	A. Yes.	23	A. Did not know.
24	Q. And you knew that, correct?	24	Q. But that's a position that your wife had

24 (Pages 90 to 93)

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<p style="text-align: right;">Page 94</p> <p>1 held prior to the -- prior to the time she was laid 2 off by the company, correct? 3 A. Position she held -- 4 Q. She was a graphic artist, correct? 5 A. Yes, she was a graphic artist. 6 Q. I think I asked you if you recall what your 7 wife's rate of pay was at the time she was laid off? 8 A. I don't recall. 9 Q. But at some point would you have known that 10 figure? 11 A. At some point I would, yes. 12 Q. You just don't recall it now? 13 A. I don't recall. 14 Q. Did Mrs. Gavin work in the same department 15 that you were working in? 16 A. Yes. 17 Q. Who was the supervisor of the department 18 during that time? 19 A. John Haskell. 20 Q. Mr. Haskell, okay. I believe you testified 21 that Mrs. Gavin had also done work for Honeywell 22 through Gavin Studio; is that correct? 23 A. Correct. 24 Q. You indicated some of that had occurred</p>	<p style="text-align: right;">Page 96</p> <p>1 Q. Let me move on to page three of Exhibit 2. 2 Actually, let me get back to that point. After the 3 point in which -- once Mrs. Gavin was no longer 4 employed by Honeywell, what were the circumstances 5 under which she would perform services for Honeywell 6 under the Gavin Studio name? 7 A. Again, under the same circumstances. 8 Q. Same circumstances, okay. Do you have any 9 estimate as to how many hours Mrs. Gavin performed 10 work for the company? 11 A. I don't know. 12 Q. On page three of Exhibit 2, am I reading 13 correctly that the hourly rate changed to 18 dollars 14 in approximately January of '83? 15 A. That is correct. 16 Q. How were these rates determined? 17 A. I would approach I believe at the time was 18 Peter Stravropoulos. I take that back, sorry. I 19 would approach Ted Lavash on some of these, on this 20 one. 21 Q. What would you say when you approached him? 22 A. I would say I would like to increase my 23 rate. 24 Q. Was Mr. Lavash agreeable to that?</p>
<p style="text-align: right;">Page 95</p> <p>1 while she was employed by Honeywell? 2 A. Yes. 3 Q. What was the nature of the work she did 4 through Gavin Studio while she was employed by 5 Honeywell? 6 A. At times there would be work overload, and 7 John Haskell would allow me to take some work home 8 on the weekends or if a job had to be done for the 9 next day, and we would get it done and bring it 10 back. 11 Q. That was invoiced by Gavin Studio to the 12 company? 13 A. Yes. 14 Q. I think your testimony was that the invoices 15 sent by Gavin Studio don't indicate who does the 16 work? 17 A. Correct. 18 Q. So is it fair to say it would not indicate 19 on that invoice whether you or Mrs. Gavin had done 20 the work? 21 A. Correct. 22 Q. To your knowledge, was Mr. Haskell aware 23 that Mrs. Gavin was doing some of this work? 24 A. Yes.</p>	<p style="text-align: right;">Page 97</p> <p>1 A. One time, yes. 2 Q. Was that in '83? 3 A. Yeah, I believe so. 4 Q. How about in '82, how did that increase come 5 about? 6 A. I correct myself. This one was through -- 7 the new rate of 15 dollars an hour was through Ted 8 Lavash. And that was the one time that I asked or 9 told him what I would want and he said okay. 10 Q. So you asked for the 15? 11 A. I asked for the 15. 12 Q. And he agreed to it? 13 A. He agreed to it. 14 Q. What about when the amount was increased to 15 18? 16 A. I don't remember how that one came about. 17 Q. Now, the invoices that were sent to 18 Honeywell or Bull from Gavin Studio, would there be 19 any way that anyone at Honeywell or Bull could tell 20 by looking at the invoice whether the work was 21 performed by you or by Mrs. Gavin? 22 A. No. 23 Q. Did anybody else perform work for Gavin 24 Studio, other than you or Mrs. Gavin?</p>

25 (Pages 94 to 97)

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	Page 98		Page 100
1 A. No.		1 that's what they gave me.	
2 Q. Is there any way in your records or Gavin		2 Q. Do you recall how much of an increase --	
3 Studio's records that you could show what hours were		3 A. Oh, I do remember this one. I take that	
4 done by you versus Mrs. Gavin?		4 back. This was given to me by James Koval.	
5 A. No.		5 Q. Who is Mr. Koval?	
6 Q. Let's move to -- two pages over. There is		6 A. He was -- I'm not sure what his title was,	
7 an entry on 9/4/84. Do you see that?		7 but he was above -- somewhere between Peter and me.	
8 A. Yes.		8 Somewhere in there.	
9 Q. There's an entry. It says blanket PO. Can		9 Q. He was --	
10 you tell me what that refers to?		10 A. He was like a -- he was the manager, put it	
11 A. That refers to a PO written for X amount of		11 that way, manager.	
12 dollars to bill against for services rendered.		12 Q. Was he a level above Peter?	
13 Q. Was that a change from the prior way that		13 A. No, he was below Peter.	
14 the billing had been done?		14 Q. And you had asked for an increase to that	
15 A. Yes.		15 amount?	
16 Q. How had it been done previously?		16 A. I had asked for an increase, and that's what	
17 A. Previously they would itemize every job.		17 he said to give me. He told them to give me a	
18 Q. The numbers, I should have asked you this		18 dollar and a half.	
19 before, but the numbers that are beginning on page		19 Q. With all these new rates that are listed on	
20 one, PO number, is that the Honeywell or Bull		20 Exhibit 2, is it correct that once the new rate is	
21 purchase order number?		21 indicated, that future invoices would be billed at	
22 A. That is correct.		22 that rate?	
23 Q. And January of '85, looks like the rate goes		23 A. Yes.	
24 up to 20 dollars; do you see that?		24 Q. And the rate increases -- well, there's an	
	Page 99		Page 101
1 A. I do.		1 indication, it says Honeywell Bull between '87 and	
2 Q. Do you know how that came about?		2 '88. Do you see that reference?	
3 A. I believe I asked for an increase, and		3 A. Yes.	
4 that's what they gave me.		4 Q. What does that mean?	
5 Q. Do you recall who it was that approved that		5 A. Honeywell joined forces with Bull	
6 increase at that time?		6 Information Systems, and they used a split name.	
7 A. That would have been Ted Lavash.		7 Q. And your rate increased to 23 dollars in	
8 Q. Do you recall at that time as of January of		8 April of '88?	
9 '85 what the hourly rate for the graphic artists who		9 A. Yes.	
10 were employees, do you recall what their hourly rate		10 Q. Do you recall how that came about?	
11 was?		11 A. I don't recall exactly how it came about.	
12 A. It was never discussed.		12 Q. Do you recall if you requested an increase?	
13 Q. So you don't know?		13 A. All the rates were requested.	
14 A. I don't know.		14 Q. Okay. In April of '91, the rate was	
15 Q. In future pages there are references to		15 increased to 29 dollars?	
16 blanket PO. Is that the same process you previously		16 A. Yes.	
17 described?		17 Q. And again, that was at your request?	
18 A. That is correct.		18 A. The amount was not my request, but I had	
19 Q. And at July or -- excuse me, turning over		19 requested an increase.	
20 the next page, September of '86, there's an		20 Q. What was the amount you had requested?	
21 indication of a new rate of 21.50; do you see that?		21 A. I didn't request an actual amount.	
22 A. I see that.		22 Q. Oh, okay. You just requested an increase?	
23 Q. Do you know how that increase came about?		23 A. Yes, and -- yes.	
24 A. I believe I asked for an increase, and		24 Q. And in April of '92, there was an increase	

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	Page 102		Page 104
1	to 35 dollars, correct?	1	years. So I have no idea what they were making.
2	A. Yes.	2	Q. But did you have some reason to think that
3	Q. Again, was that per your request?	3	your hourly rate was higher than the employee's
4	A. Yes.	4	hourly rate?
5	Q. Going onto the last page. There were	5	MR. WILGOREN: Objection, he testified
6	several other increases noted there from 37 -- to 37	6	he didn't know what the employees were making.
7	dollars, then to 40 dollars, then to 60 dollars; is	7	MR. DONOGHUE: He said he wasn't
8	that correct?	8	completely sure. I'm just trying to test the limits
9	A. Correct.	9	of that.
10	Q. Do you recall any of the specifics of the	10	A. I don't know.
11	increases to 37 or 40 dollars?	11	Q. Did you ever have any discussion with any of
12	A. I don't recall exactly how they came about.	12	the employees who were graphic artists as to what
13	These would have been asked through Peter.	13	their hourly rate was?
14	Q. Peter was the department supervisor at that	14	A. No, I did not.
15	time?	15	Q. Now, during the entire time that was
16	A. Right.	16	indicated by Exhibit 2, I think I've already asked
17	Q. How about the increase to 60 dollars, do you	17	you questions, that when you came back to perform
18	recall that at all?	18	services for the company in you believe it was '79,
19	A. Yes, that was after I was told to sign a	19	that you knew you were an independent contractor,
20	contract agreement and after I had inquired about	20	correct?
21	contracts.	21	A. That's my belief.
22	Q. Did you actually perform work at the 60	22	Q. Was that your understanding throughout the
23	dollar rate?	23	time period reflected on Exhibit 2?
24	A. Yes, I did.	24	A. That's what I believed.
	Page 103		Page 105
1	Q. Did you sign a contract?	1	Q. So you knew during that entire time period
2	A. I did, under the lawyer's direction.	2	that the company was treating you as an independent
3	Q. During any of these time periods up until	3	contractor and not an employee, correct?
4	November of '01, did you have any knowledge as to	4	A. That was my understanding.
5	the hourly rate for the graphic artists who were	5	Q. And you also understood that since the
6	employed by Bull?	6	company considered you to be a contractor and not an
7	A. No.	7	employee, that there were certain employee benefits
8	Q. Did you understand that all of you were	8	that the company did not think you were eligible
9	receiving more on an hourly rate as a contractor	9	for?
10	than employees received?	10	MR. WILGOREN: Objection.
11	MR. WILGOREN: Objection.	11	Q. Is that correct?
12	A. I wasn't totally sure.	12	A. Correct.
13	Q. You say you're not totally sure, do you have	13	Q. That was your understanding throughout the
14	some --	14	entire period of time reflected by Exhibit 2,
15	A. Well, you're talking my pay compared to	15	correct?
16	employee's pay that were there?	16	A. Yes, up to the point of signing the
17	Q. Yes.	17	contract.
18	A. Again, I don't know what the employees were	18	Q. Up until the point you signed the contract,
19	being paid.	19	you knew that in the company's view, you were not
20	Q. But did you have an understanding that your	20	considered as a participant or eligible for their
21	pay rate was higher than their pay rate?	21	employee benefit programs?
22	A. Again, I wasn't totally sure.	22	A. Correct.
23	Q. But it sounds like --	23	Q. During any of that period of time from '79
24	A. Some of the employees had been there 20, 30	24	or -- actually if you look at Exhibit 2 again, it

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<p style="text-align: right;">Page 106</p> <p>1 indicates you started work for Sullivan & Cogliano 2 in '78. Do you recall if that's the actual time 3 period in which you came back to the company after 4 having left? 5 A. Came back to the company through Sullivan & 6 Cogliano? 7 Q. Yes. 8 A. It must have been shortly before that, 9 because I'm sure these are billing dates. 10 Q. At no time between, whatever the date is, 11 between the date you -- let's start at the date of 12 Gavin Associates. From the time you began providing 13 services through Gavin Associates through the time 14 you signed the contract in November of '01, you 15 understood during that entire period that you were 16 not considered an employee, correct?</p> <p>17 MR. WILGOREN: By Bull? 18 MR. DONOGHUE: By Bull. 19 A. Yes. 20 Q. Or Honeywell. 21 A. Or Honeywell. 22 Q. At the time you initially worked for 23 Honeywell from approximately '75 to '78 or '79, you 24 did have familiarity with what the company's benefit</p>	<p style="text-align: right;">Page 108</p> <p>1 your status to an employee? 2 A. No. 3 Q. Did you ask anybody at Honeywell or Bull 4 before that as to what your eligibility was for 5 employee benefits? 6 A. No. 7 Q. Who did you raise the issue with in 2001? 8 A. Cecile Ray. 9 Q. How did that come about? 10 A. When I received the contract to sign to take 11 and read over before I signed it, I went on the Web 12 and investigated employee contractor law, and I came 13 across a lot of information. 14 Q. It had never occurred to you to look at that 15 before November of 2001? 16 A. No. 17 Q. What caused you to look in that direction? 18 A. There was a lot to read in that contract, 19 and I wanted to know what I was signing and what I 20 was reading. 21 MR. WILGOREN: Can we go off the record? 22 MR. DONOGHUE: Yes. 23 (Discussion off the record) 24 (Whereupon, a recess was taken)</p>
<p style="text-align: right;">Page 107</p> <p>1 policies were, correct? 2 A. Yes, through the handbook. 3 Q. And that included descriptions of the 4 retirement plan? 5 A. I don't recall what I actually read at the 6 time, but yes. 7 Q. Insurance plans? 8 A. Yes. 9 Q. And vacation and holiday policies, things of 10 that sort? 11 A. Yes. 12 Q. Have you been paying your own 13 self-employment taxes since 1979? 14 A. Yes. 15 Q. You have not, during that time, been an 16 employee of Gavin Studio, correct? 17 A. I have not been? Say that again. 18 Q. Gavin Studio does not employ you, correct? 19 A. No. 20 Q. When did you first raise with anybody at 21 Honeywell or Bull the issue as to your 22 classification as an independent contractor? 23 A. That would have been November 2001. 24 Q. Had you asked anyone before that to change</p>	<p style="text-align: right;">Page 109</p> <p>1 (Exhibit 3 marked for identification) 2 (Document exhibited to witness) 3 Q. Mr. Gavin, do you have Exhibit 3 in front of 4 you? 5 A. I do. 6 Q. There's a reference in Exhibit 2 to a -- let 7 me make sure I have the correct reference here. To 8 Integris on the last page. Do you see that 9 reference? 10 A. Yes, I do. 11 Q. You refer to an agreement that you were 12 presented with. Is Exhibit 3 that agreement? 13 A. Yes. 14 Q. I call your attention to page six. There is 15 a signature there, a signature on behalf of Gavin 16 Studio. Do you see that? 17 A. Yes. 18 Q. Is that your signature? 19 A. Yes. 20 Q. Also it indicates a date of 11/8/02. Is 21 that the correct date? 22 A. That's when I signed it. 23 Q. If I call your attention back to the last 24 page of Exhibit 2, the reference to Integris states</p>

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1 period you provided services to Honeywell or Bull as
 2 an independent contractor, were you given the
 3 opportunity to become an employee?
 4 MR. WILGOREN: Objection as to form.
 5 A. Was I given the opportunity at any time?
 6 Q. Yes.
 7 A. I was asked once to become an employee.
 8 Q. When was that?
 9 A. Exact date I'm not sure. It was -- Linda
 10 Nidle asked me.
 11 Q. Do you recall what she said?
 12 A. She wanted to know if I ever considered
 13 becoming an employee.
 14 Q. What did you respond?
 15 A. I said no, I hadn't.
 16 Q. Did she ask you at that time whether you
 17 were interested in becoming an employee?
 18 A. Yes, she did.
 19 Q. What was your response at that time?
 20 A. I said I would like to know more
 21 information.
 22 Q. Did you ever have any subsequent discussion
 23 with her about that?
 24 A. I did have some -- a discussion with her.

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1 A. Within a week.
 2 Q. What happened in that discussion?
 3 A. I was offered a pay less than I was making.
 4 Q. To become an employee?
 5 A. To become an employee.
 6 Q. Was your understanding that if you became an
 7 employee, you would be eligible for employee
 8 benefits?
 9 A. I would assume that, yes.
 10 Q. What were they offering to pay you?
 11 A. As an hourly rate?
 12 Q. Yes.
 13 A. 27 dollars an hour.
 14 Q. What were you currently earning at that
 15 point?
 16 A. 29.
 17 Q. What did you say?
 18 A. I said no.
 19 Q. Did you have any further discussion with
 20 Linda Nidle at that time?
 21 A. No.
 22 Q. Did you ever pursue it at any other --
 23 A. No.
 24 Q. -- time? So you made the decision at that

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1 Q. When was that?
 2 A. Again, I'm not sure what years. Around
 3 1991.
 4 Q. Can you put it in context from the first
 5 discussion you had with Linda Nidle about becoming
 6 an employee when you had that second discussion?
 7 A. It was at the time when my rate changed.
 8 Q. You're referring to Exhibit 2?
 9 A. Yes. Again, this is the rate change. The
 10 date is when this was billed or the PO was written,
 11 it was 4/23/91. So that's approximate.
 12 Q. So your recollection is the '91?
 13 A. '91.
 14 Q. And you indicated you had a discussion in
 15 which Linda Nidle asked you if you're interested in
 16 becoming an employee?
 17 A. Yes.
 18 Q. And you said you'd like more information?
 19 A. Yes.
 20 Q. And you had a follow-up discussion with
 21 Linda Nidle?
 22 A. Yes.
 23 Q. How long after the first discussion was it
 24 before the second discussion took place?

1 time that you were not interested in being
 2 classified as an employee?
 3 MR. WILGOREN: Objection.
 4 A. Not for that pay, no.
 5 Q. Do you know if other contractors were
 6 offered the same opportunity at around that same
 7 time?
 8 A. Not that I know of.
 9 Q. Were you aware at any time during the period
 10 that you provided services to Honeywell or Bull as a
 11 contractor of the company making an offer to
 12 contractors to become employees?
 13 MR. WILGOREN: Objection.
 14 A. No.
 15 Q. And you knew when you rejected Ms. Nidle's
 16 offer to become an employee that you would continue
 17 to be not eligible for the employee benefits, the
 18 benefits that employees received?
 19 MR. WILGOREN: Objection.
 20 A. Yes, that was my understanding.
 21 Q. I'm sorry, I didn't --
 22 A. That was my understanding.
 23 (Exhibit 5 marked for identification)
 24 (Document exhibited to witness)

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1	A. Yes, I do.	1	aware at the time that the pension plan had been
2	Q. Are you friends or --	2	frozen?
3	A. Well, we chat on line. You know, we send	3	A. Correct.
4	e-mails.	4	Q. You weren't aware what that actually means?
5	Q. Sure. Do you recall when Mr. Massa sent	5	A. I was not aware.
6	this to you?	6	Q. And you also met with Mr. Thalen again in
7	A. I don't remember exactly, but it had to be	7	March 18th of 2002, correct?
8	after this date.	8	A. Yes.
9	Q. Do you recall if it was soon after this date	9	Q. Is the substance of that discussion set
10	or a long time from this date?	10	forth in page five of Exhibit 9?
11	A. It was soon after this date.	11	A. Yes.
12	Q. So you received this approximately June of	12	Q. Let me call your attention to page seven of
13	2002?	13	Exhibit 9, interrogatory number 11.
14	A. Yes.	14	A. Okay.
15	Q. Had you previously been aware of anything	15	Q. The question that is asked in that
16	relating to the freezing of the Bull pension plan?	16	interrogatory is that at any time from 1979 through
17	A. No.	17	November 2001, did you ask Bull to withhold taxes
18	Q. This was the first you heard of it?	18	from the payments made to you for services
19	A. Yes.	19	performed. Do you see that question?
20	Q. Do you know what it means to freeze the	20	A. Yes.
21	pension plan?	21	Q. There's not an answer to that. There's an
22	A. Not really. I'm still not clear after	22	objection stated. Do you see that following that?
23	reading it.	23	A. Yes.
24	Q. Okay, all right.	24	Q. Let me ask you that question now. At any
	Page 139		Page 141
1	MR. WILGOREN: Actually, just to be	1	time from 1979 through November of 2001, did you ask
2	accurate, this is to terminate the frozen retirement	2	Bull to withhold taxes from the payments due you?
3	plan.	3	A. No.
4	MR. DONOGHUE: Okay, right. Okay.	4	Q. You were aware that they were not
5	Q. But it refers to a frozen retirement plan,	5	withholding taxes, correct?
6	correct? Is that correct?	6	A. Yes, I was aware.
7	A. Yes.	7	Q. Calling your attention to interrogatory
8	Q. Did you know -- an inference from this is	8	number 13, which is on page -- which begins on page
9	that the retirement plan had previously been frozen.	9	eight. This interrogatory refers to work that you
10	Would that have been something that you would have	10	did for other companies outside of your normal work
11	known about?	11	hours for Bull; do you see that there?
12	A. I had heard something about the retirement	12	A. Yes.
13	plan was changed at one point. Not being familiar	13	Q. From the 1979 period through 2001, did you
14	with it, I -- it never occurred to me to even try to	14	perform any services, graphic arts related services
15	understand it.	15	for any entity other than through Gavin Studio?
16	Q. Returning back to your February 2002	16	A. No.
17	discussion with Mr. Thalen, did you ask him any	17	Q. You didn't perform any services as an
18	questions about the pension plan?	18	employee of any other entity?
19	A. I didn't ask him any questions directly	19	A. As an employee, no.
20	about the pension plan, no.	20	Q. Let me move to the bottom of page 13 and
21	Q. Did he, during this discussion at all,	21	going over to page 14, interrogatory number 21.
22	mention that the pension plan had been frozen?	22	That asks you a question about whether or not you
23	A. No, he did not.	23	were offered the option of becoming employed in
24	Q. I take it that you didn't -- you weren't	24	Bull's contingent workforce division; do you see

36 (Pages 138 to 141)

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<p style="text-align: right;">Page 142</p> <p>1 that on the top of page 14?</p> <p>2 A. I see it.</p> <p>3 Q. Had you ever heard the words contingent</p> <p>4 workforce division before?</p> <p>5 A. Yes.</p> <p>6 Q. When did you hear that?</p> <p>7 A. From Ted Lavash.</p> <p>8 Q. When was that?</p> <p>9 A. I'm not sure what year it was.</p> <p>10 Q. What did you understand the contingent</p> <p>11 workforce division to be?</p> <p>12 A. I wasn't really sure at the time.</p> <p>13 Q. Did you ask any questions about it?</p> <p>14 A. I didn't ask any questions about it.</p> <p>15 Q. What do you know about the contingent</p> <p>16 workforce division?</p> <p>17 A. That the company was changing its policy to</p> <p>18 workers.</p> <p>19 Q. Do you recall when that was?</p> <p>20 A. No, I don't. I don't remember the time of</p> <p>21 it, what year it was.</p> <p>22 Q. And your recollection was you heard it from</p> <p>23 Mr. Lavash?</p> <p>24 A. Yes.</p>	<p style="text-align: right;">Page 144</p> <p>1 A. I didn't.</p> <p>2 Q. We'll go to the next exhibit.</p> <p>3 (Exhibit 11 marked for identification)</p> <p>4 (Document exhibited to witness)</p> <p>5 Q. I show you -- I'm not going to show you.</p> <p>6 You already have in front of you, Mr. Gavin, what's</p> <p>7 been marked as Exhibit 11; is that correct?</p> <p>8 A. Correct.</p> <p>9 Q. Have you seen that document before?</p> <p>10 A. Yes, I have.</p> <p>11 Q. Do you know what that is?</p> <p>12 A. I'm not sure what the technical term is.</p> <p>13 But, yes, I know what it is.</p> <p>14 Q. Is it your understanding that, that's the</p> <p>15 complaint which initiated the proceedings that bring</p> <p>16 us here today?</p> <p>17 A. I believe so.</p> <p>18 Q. Let me call your attention to page three,</p> <p>19 paragraph six.</p> <p>20 A. Okay.</p> <p>21 Q. The second sentence of paragraph six states,</p> <p>22 quote, upon information and belief, Bull</p> <p>23 intentionally did this to avoid the significant</p> <p>24 financial costs of providing Gavin with benefits to</p>
<p style="text-align: right;">Page 143</p> <p>1 Q. Did you have any discussion with him about</p> <p>2 your becoming employed in the contingent workforce</p> <p>3 division?</p> <p>4 A. No.</p> <p>5 Q. Did you have any discussion with anybody</p> <p>6 about that?</p> <p>7 A. No.</p> <p>8 Q. You've previously discussed a conversation</p> <p>9 you had with Linda Nidle about becoming an employee.</p> <p>10 I'm just trying to put them in context. Was that</p> <p>11 before or after your discussion with Mr. Lavash</p> <p>12 about the contingent workforce division?</p> <p>13 A. With Linda Nidle?</p> <p>14 Q. Yes.</p> <p>15 A. That was her discussion. She left the</p> <p>16 company long before this came up.</p> <p>17 Q. So you had no discussion with anyone at Bull</p> <p>18 about the contingent workforce division, other than</p> <p>19 your discussion with Mr. Lavash?</p> <p>20 A. Correct.</p> <p>21 Q. Is there anything else you remember about</p> <p>22 the discussion with Mr. Lavash?</p> <p>23 A. It was just a passing comment.</p> <p>24 Q. You didn't inquire further?</p>	<p style="text-align: right;">Page 145</p> <p>1 which he was entitled. Close quotes at that point.</p> <p>2 That refers to characterizing you as an independent</p> <p>3 contractor, correct?</p> <p>4 A. Yes.</p> <p>5 Q. What is the basis for your belief that Bull</p> <p>6 intentionally did this to avoid financial costs?</p> <p>7 A. Well, my belief is that the size of the</p> <p>8 company that Bull is, they would know what the legal</p> <p>9 aspects of hiring someone are.</p> <p>10 Q. Anything other than that?</p> <p>11 A. No, I don't believe so.</p> <p>12 Q. Is it your claim that the company did this</p> <p>13 intentionally to deprive you of benefits?</p> <p>14 A. I don't know that.</p> <p>15 Q. You don't know that?</p> <p>16 A. No.</p> <p>17 Q. You've testified already to your leaving the</p> <p>18 company and then coming back to work for Mr. -- I've</p> <p>19 lost track of his name, unfortunately.</p> <p>20 MS. HARRIS: Haskell.</p> <p>21 Q. Haskell, thank you. I may have already</p> <p>22 asked you this question, but when you came back, did</p> <p>23 you go to work at the same desk that you worked at</p> <p>24 before you left?</p>

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1 Q. Do you follow the company's stock price at
2 all?
3 A. Not really.
4 Q. So you have --
5 A. Oh, can I take that back? My wife had
6 Honeywell stock. So in that sense, a dividend check
7 would come every once in awhile for three dollars.
8 That's the only knowledge I have.
9 Q. So you're not in a position to come up with
10 a calculation in stock options?
11 A. No, absolutely not.
12 MR. DONOGHUE: I'm going to take a
13 couple of minutes, if that's okay with you.
14 MR. WILGOREN: Sure.
15 (Whereupon, a recess was taken)
16 Q. Back to a couple of the documents. Do you
17 have Exhibit 11? Actually, no, Exhibit 9. I'm
18 sorry. My apologies.
19 A. I do.
20 Q. The figure I had asked you about, the
21 self-employment tax, do you see that on page 14?
22 A. Yes.
23 Q. Why do you put a figure representing half of
24 the self-employment tax?

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1 do it. I think that's what he said.
2 Q. Did you recall anything else about that
3 discussion?
4 A. He said -- I said -- he briefly described it
5 just saying, you know, they take out your taxes,
6 give you some vacation pay. And I said, "Well, I
7 don't know what that means. Doesn't sound like
8 anything good to me." That's the last I ever heard
9 of it.
10 Q. Did you ask him any questions about it after
11 that?
12 A. No.
13 Q. Was he directing his discussion to you, as
14 far as you knew, or were there others in the area as
15 well?
16 A. I think there was other people in the area,
17 but he was leaving. It was like a passing thought
18 as he was going by.
19 Q. When you say leaving, just leaving the area?
20 A. Leaving the area.
21 Q. Not --
22 A. No, he wasn't leaving the company. He was
23 walking out, and he saw me and just briefly said it.
24 Q. Do you have any form of an individual

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1 A. I think that's what the company's obligation
2 was.
3 Q. Interrogatory 18, which is -- goes over from
4 page 11 to page 12.
5 A. Yes.
6 Q. Actually, do you see interrogatory 18, 11
7 going on to page 12? Actually, let me ask the
8 question without referring to the interrogatory.
9 Between 1979 and January of 2002, did you ever
10 consult with a financial advisor or a consultant or
11 an accountant concerning your contractor situation?
12 A. No.
13 Q. Go back to -- bear with me while I find the
14 right interrogatory. Your discussion with Ted
15 Lavash about the contingent workforce division,
16 could you describe for us how that conversation
17 occurred?
18 A. He was leaving his cubicle. My cubicle was
19 right next to his. And he just off the cuff
20 mentioned that -- I think he came from a meeting
21 earlier or something and said that the company was
22 going to be starting a new program called CWD, and
23 that -- I don't remember his exact words, but
24 basically that all contractors were going to have to

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1 retirement account or any sort of a --
2 A. I had started an individual SEP.
3 Q. A SEP, all right.
4 A. SEP IRA.
5 Q. When did you start that?
6 A. I'm not sure of the exact dates. I'd have
7 to look at my taxes.
8 Q. It would be reflected on your taxes?
9 A. It would be on my taxes.
10 Q. Because you're taking the deduction for it?
11 A. Yeah.
12 Q. Since you've ceased providing services to
13 Bull, have you provided any services at all, other
14 than through Gavin Studios? Studio, excuse me.
15 A. Services?
16 Q. For any entity, either as an employee or
17 contractor.
18 A. Just individual jobs, like I had mentioned
19 before.
20 Q. Through Gavin?
21 A. Yes.
22 Q. Everything's through Gavin?
23 A. Everything's through Gavin Studio.
24 Q. During the time you provided services for